P.R. No. 2045/06
Presented by Soumitra Sharma
dated 13/4/06

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1.

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH

Writ Petition No. 1979 of 2006

PETITIONER: Gopal Shrivastava,
S/o Shri Kuldip Sahay,
Aged about 56 years,
Occupation: Service,
Presently posted and working as
Upper Division Clerk,
Nagar Panchayat: Ramanujganj,
District: Surguja,
R/o Near Judge Quarter,
Ward No.6, Ramanujganj,
District: Surguja, Chhattisgarh.

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- Versus -

RESPONDENTS:

1. State of Chhattisgarh,
Through the Secretary,
Department of Urban
Administration & Development,
Mantralaya, D.K.S. Bhawan,
Raipur, Chhattisgarh.

2. Nagar Panchayat: Ramanujganj,
Through the Chief Municipal
Officer,
Nagar Panchayat: Ramanujganj,
District: Surguja, Chhattisgarh.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, DIRECTIONS ETC., IN THE NATURE OF MANDAMUS, CERTIORARI AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 1979/ सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25-4-2006

Mr. Sanjay K. Agrawal, counsel for the petitioner.

Miss Deepali Pandey, Panel Lawyer for the State/respondent No.1.

Heard both the counsel.

The case of the petitioner is that he was appointed as L.D.C. on 30th June, 1972, and he joined on the said post with effect from 1-7-1972 in the Office of respondent No.2. In the year 1977, on the direction of respondent No.2, the petitioner received accounts training also and the petitioner having passed the Diploma of All India Institute of Local Self Government, was granted the benefit of two increments vide order dated 25-4-1988. The petitioner was promoted to the post of U.D.C. on 5-1-1977 and was confirmed on the said post on 9-4-1984. After reorganisation of the State of Madhya Pradesh with effect from 1-11-2000, the State of Chhattisgarh came into being. The petitioner is entitled to be considered for promotion to the post of Chief Municipal Officer in C-Class municipality. Vide order dated 17-4-2003, respondent No.1 directed the petitioner to perform the duties of Chief Municipal Officer of Nagar Panchayat: Kusmi. The petitioner joined the said post and later on, Nagar Panchayat: Rajpur was also constituted and the petitioner was also the additional charge. Thereafter, the petitioner was transferred as In-charge Chief Municipal Officer in Nagar Panchayat: Balrampur. As per Rule 5 of the Chhattisgarh State Municipal Service (Executive) Rules, 1973, framed under Section 86 of the Chhattisgarh Municipalities Act, 1961, promotion to the post of Chief Municipal Officer is to be made by direct recruitment as well as by promotion. Sub-rule

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(2) of Rule 13 of the Rules, 1973 prescribes constitution of the Selection Committee and sub-rule (2) further provides that the Committee shall meet at least once in ever year to consider all cases for promotion and submit its recommendations to the State Government and thereafter, the list to be drawn. But in spite of that, the petitioner's case is not being considered. The petitioner made representations and reminders to the Government in the years 2003, 2005 & 2006. The petitioner is fully eligible for consideration of promotion to the post of Chief Municipal Officer. It has been mentioned in para 5.11 of the petition that one Sudarshan Dubey, who was junior to the petitioner, was considered and promoted to the post of Chief Municipal Officer vide order dated 19-7-2002 (Annexure P-11), whereas, the case of the petitioner and his representations are not being considered.

Learned counsel for the petitioner submits that in 28 Municipal Councils and 72 Nagar Panchayats, the post of Chief Municipal Officer has been created and most of these posts are manned by Revenue Inspector, Revenue Sub-Inspector or even by U.D.C. leaving few places where the post is manned by substantively appointed Chief Municipal Officer.

Having heard learned counsel for the parties and considering the provisions of the Rules, 1973, respondent No.1 is under statutory obligation to regularly hold the meeting of Departmental Promotion Committee for filing up the post of Chief Municipal Officer by promotion or by direct recruitment, which is not being considered by the respondents. Therefore, the petitioner is allowed to make a detailed representation to respondent No.1 within a period of two

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weeks from today and in turn, respondent No.1 shall consider the representation and pass order within a period of two months from the date of receipt of the representation, in accordance with law, in order to fill up the vacancies of Chief Municipal Officer in the Nagar Panchayats.

With the observation and direction aforesaid, the petition stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

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